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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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|-----------------|-------------|----------------------|---------------------|------------------|

10/542,400

07/15/2005

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EXAMINER

SALVATORE, LYNDIA

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

07/11/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



## **DETAILED ACTION**

### ***Response to Amendment***

1. Applicant's amendment and accompanying remarks filed 4/4/08 have been fully considered and entered. Claim 1 has been amended and claims 2-4 have been canceled. Applicant's amendments are not found patently distinguishable over the prior art and Applicant's arguments are not found persuasive of patentability for reasons set forth herein below.

### ***Claim Rejections - 35 USC § 103***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Amundson et al, WO 00/38565 in view of Schmidt et al., US 6,278,037.

### ***Response to Arguments***

Applicant amended claim 1 to recite that fibers in the internal layer are formed from a blend of polypropylene/polyethylene or polyethylene/polyester and the fibers of the surface layer are formed from polyethylene/polyester. Applicant argues a lack of motivation to combine references on the grounds that the combination of prior art does not teach that the fibers of the internal layer comprise blend of polypropylene/polyethylene or polyethylene/polyester and the fibers of the surface layer are formed from polyethylene/polyester. Applicant further argues that in both the internal layer and surface layer, polyethylene constitutes the sheath part of the conjugate fiber. Applicant submits that such a fiber orientation permits easy heat bonding at low temperature and increases strength and unity of the structure. This argument is not found persuasive.

In response to Applicant's fiber materials, it is respectfully pointed out that the secondary reference of Schmidt et al., teach an absorbent article comprising polypropylene/polyester or polyethylene/polyester bicomponent fibers having a length ranging from .3-7.5 cm and a fineness ranging from .4-20 dtex (column 11, 19-38). Schmidt et al., specifically teach that such fibers provide thermal bonding due to the low melting sheath component (column 11, 5-20). Applicant's claims encompass both the internal layer and surface layer comprising polyethylene/polyester fibers.

With regard to Applicant's argument that the prior art does not teach that both the internal layer and surface layer, polyethylene constitutes the sheath part of the conjugate fiber, it is respectfully pointed out that Applicant is not claiming such features. Applicant merely claims conjugate fibers formed with polyethylene/polyester in the surface layer and heat bondable synthetic fibers formed from a combination of polymers in the internal layer. Nowhere in claim 1 does Applicant recite the limitation of a sheath/core fiber wherein polyethylene constitutes the sheath portion in both the internal and surface layers. As such, Applicant's arguments are not considered commensurate in scope with the claimed subject matter.

The published PCT application issued to Amundson et al., teach a composite laminate comprising two outer polyethylene layers bonded to an inner polypropylene layer (page 2, 5). Said laminate is suitable for use as a wipe. Said inner polypropylene layer may also comprise a blend of synthetic and natural fibers (page 2, 25). Amundson et al., teach a coform ratio blend of synthetic to pulp fibers ranging from 50:50 (page 5, 30 and page 6, 1). With regard to the basis weight limitations, Amundson et al., teach layers having a basis weight ranging from 25-120 g/m<sup>2</sup> (page 10, 30). Also, Amundson et al., teach basis weights of the individual layers

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(outer/inner/outer) of 10/80/10 g/m<sup>2</sup> respectively (page 11, 5). Such a composite would inherently meet the total basis weight limitations recited. With regard to the heat bonded limitations, Admundson et al., teach attaching the individual layers by a thermo-mechanical process (e.g., heated rollers) (page 10, 10). It is the position of the Examiner that such heating would inherently impart heat bonding of the synthetic fibers.

The published PCT application issued to Amundson et al., teach bicomponent fibers, but fails to teach the claimed bicomponent fibers. However, such fibers are commonly known in the disposable garment art. For example, the patent issued to Schmidt et al., teach an absorbent article comprising polypropylene/polyester or polyethylene/polyester having a length ranging from .3-7.5 cm and a fineness ranging from .4-20 dtex (column 11, 19-38). Schmidt et al., specifically teach that such fibers provide thermal bonding due to the low melting sheath component (column 11, 5-20). It is the position of the Examiner that invention of Amundson et al., and the invention of Schmidt et al., is from the same field of endeavor, namely disposable articles.

Therefore, motivated by the desire to provide a composite disposable article having thermal bonding abilities it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the composite article of Amundson et al., with the bicomponent fibers taught by Schmidt et al.

The combination of Admundson et al., in view of Schmidt et al., fails to teach the claimed ratio of the lengthwise and crosswise direction strength, the ratio of the strength in a dry state to that of a wet state and the water absorption properties, it is expected that the disposable absorbent article provided by the combination Admundson et al., in view of Schmidt et al.,

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would exhibit the claimed ratios once the disposable absorbent composite is provided. Support for said presumption is found in the use of like materials such as the claimed polymeric bicomponent, synthetic and natural pulp fibers and the use of like processes such as forming a multi-layer composite having the claimed basis weight ranges and fiber ratios, which would result in the claimed strength and absorption properties. Applicant is invited to prove otherwise.

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M. Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Lynda Salvatore/  
Primary Examiner  
Art Unit 1794  
7/6/08

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| <b>Serial Number</b><br> | <b>Application No.</b><br>10/542,400  | <b>Applicant(s)</b><br>YASUMITSU ET AL. |  |
|   | <b>Examiner</b><br>Lynda M. Salvatore | <b>Art Unit</b><br>1794                 |  |
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